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August 25, 1995

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OUR FILE NO

19825-11917

Mr. Cesar Lee
Remedial Project Manager 3HW21
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107

Re: Metal Bank of America
Cottman Avenue Site

Dear Mr. Lee:

This will confirm receipt of your letter of August 24, 1995, denying our request for an additional 60-day extension beyond the current deadline (September 18, 1995) in which to submit comments to EPA's proposed remedial plan for the Metal Bank Cottman Avenue Superfund Site. After your further discussions with Mr. Weidner of this office, our request was again denied.

We view such denial as indicative of EPA's predisposition that its remedy selection is a foregone conclusion and not subject to meaningful consideration of comments. EPA's stated purpose for the denial was based solely on its desire to issue the ROD before the end of the fiscal year for "bean counting". The additional statements contained in your letter were not raised during the telephone discussion. These are after-the-fact contrived excuses. We believe EPA's decision on this basis is an abuse of discretion, arbitrary and capricious, and results in a complete denial of due process by attempting to foreclose an opportunity to submit full and complete comments on behalf of our clients.

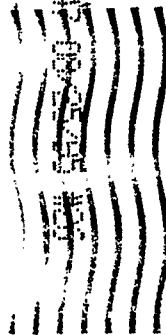
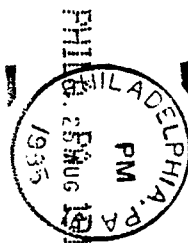
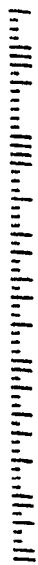
During course of his discussions with you, Mr. Weidner was left with the impression that EPA, for whatever reason, was unwilling to provide the full extension which it believed was for an additional 90 days. For the reasons stated in my August 3 letter, we believe that the requested 60-day extension was reasonable and necessary to have a full opportunity to be heard on the remedy selection. Since that letter and before, we have been working diligently and have made progress toward completing this difficult task.

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Because the Agency has indicated that the site does not present an imminent threat, a reasonable extension of time will not cause any undue hardship. This is further evidenced by the EPA's failure to move promptly at the site, taking 8 years to provide for an RI/FS after reopening the matter. Your new suggestions that the immediate need for an ROD is based on interest exhibited at the public meeting is without merit. That interest was the result of misinformation from the Agency and not actual conditions at the site and cannot be reconciled with the history of government inaction. We are renewing our request but only for an additional thirty (30) days beyond the current deadline, so that comments could be submitted up to and including October 18, 1995.

The Agency's prompt consideration of this revised request is appreciated. We request that this and all related correspondence on this issue be made part of the Administrative Record.

Very truly yours,

MATTIONI, MATTIONI & MATTIONI, LTD.



John Mattioni

JM/smb

VIA FACSIMILE

and by regular U.S. Mail

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